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GENEALOGY.

THE BROOKE FAMILY OF VIRGINIA.

(By Prof. ST. GEORGE TUCKER BROOKE, Morgantown, W. Va.)

(CONTINUED)

WILL OF JOHN BROOKE, 1788.

Will of John Brooke (Essex County Records).

In the name of God. This is the last will and Testament of John Brooke, Gent. After recommending my soul to God, I give and Devise in manner following. I give to my beloved wife one-third part of my whole estate During her natural life. Item. I give to my *son*,* Wm. Thornton Brooke, all my lands in Essex to him and his heirs forever, and in case of his death without such heir, then to daughter Ann Brooke to her and her heirs forever. Item. My will is that all my slaves and personal Estate be equally divided between my *two children*,* William Thornton Brooke and Ann Brooke, at the time my said Daughter, Anne Brooke, shall come of age or marry, and in case my *two children*,* Wm Thornton Brooke and Ann Brooke should die without issue, I give my whole estate to be equally divided between my three *half brothers*, Robert Spottswood, William and Thomas Hipkins, to them and their heirs forever. I appoint William Thornton, John Rose and Edmund Brooke my Executors and guardians to my children. In testimony whereof I have hereunto set my hand this 28th Day of June, 1787.

JOHN BROOKE.

Test: JAMES NEVISON.

WM. WARING.

At a Court continued and held for Essex Co. at Tappahannock on the 22nd Day of April, 1788. This last Will and Testament of John Brooke, dec'd, was offered to proof by Wm. Thornton, one of the Executors therein named, who qualified to the same as the Law directs, and was proved by the oath of Wm. Waring, one of the witnesses thereto, which is ordered to be certified.

Test: JOHN SMITH, D. C'lk.

And at a Court held for the said Co. at the place aforesaid, on the 16th day of June, 1788. This last will and testament of John Brooke, dec'd, was further proved by the Oath of James Nevison, another of the witnesses thereto, which is ordered to be recorded.

Test: HANCOCK LEE, Clk.

Truly recorded.

Test: JOHN SMITH, D. C'lk.

* The italics are ours. (St. G. T. B.)

A division of the slaves belonging to the estate of William Brooke, dec'd, between Mr. Richard Hipkins in right of his wife, and John Brooke, heir at law. Lot No. 1 to heir at law. Lot No. 2 to Mrs. Hipkins. January 25, 1771.

These old wills would be competent evidence in any court of law or equity because they "came from the proper custody," and "are old enough to prove themselves," and, *ante litem motam*, were "acted upon;" the actual fact being that they are links whereby the Brooke Bank estate has passed from William Brooke I (1734), to his great-great grandson, William Hill Brooke, who died about 1896, aged about 75 years.

LINEAL DESCENDANTS OF WILLIAM BROOKE I, AND OF HIS WIFE, SARAH (TALIAFERRO) BROOKE. *

II. Sarah (1), died unmarried, 1767; posthumous son II. William (2), m. Ann Benger, dau. Elliot Benger and Dorothea Bryan, sister of Lady Spotswood; issue.

III. John Brooke (1), m. Lucy, dau. of Col. Francis Thornton, of King George Co., and of his wife, Sarah Fitzhugh, III. William (2), d. in infancy.

III. John Brooke (1) and his wife, Lucy Thornton, had issue, IV. William Thornton Brooke (1) and IV. Ann Brooke (2).

IV. William Thornton Brooke (1), m. Maria Whiting Baylor, and had issue, V. Lucy Thornton Garnett Brooke (1), m. 1st. Col. G. B. Cooke, had two children, both died, m. 2nd John Williams, of Norfolk, Va., no issue; V. Alexander Tunstall Brooke (2), d. s. p.; V. Eliza (3), d. y.; V. Robert Baylor Brooke (4), and V. a 2nd Robert Baylor Brooke (5), both died in childhood; V. William Hill Brooke (6), m. 1st Clarissa Jane Lawrence, dau. John Lawrence and Hannah Starling, his wife; issue, VI. John Lawrence Brooke (1), m. Maria Garnett, no issue; VI. William Thornton Brooke (2), m. Lina F. Abernathy (issue, VII. Annie Wilson (1), m. Robert Hill Steger) VII. Clara (2), VII. Fannie (3) VII. Bayham (4). VII. Mildred (5), VII. Betsy Thornton (6), VI. Lucy Garnett Brooke (3), m. George William Catlett (issue, VII. William Brooke (1), and VII. Lucy Brooke Catlett (2),). VI. Ella Brooke (4), m. James Hillhouse Perry, U. S. N., (issue VII. John Stone Perry (1),) VI. Alexander Tunstall Brooke (5), m. Harriet Thornton Catlett, no issue; VI. Roderick Bayham Brooke (6), m. Ella Constantia Harrison (issue, VII. William Hill Thornton Brooke (1), and VII. Amelia Brooke (2),); VI. Virginia (7), m. Joseph Page Anderson (issue, VII. Margaret (1); VII. Virginia (2); VII. Alice (3); VII. Walter (4); VI. Robert Brooke (8), d. s. p.; VI. Mary Baylor Brooke (9); VI. Alice Brooke (10), m. Thomas Branch Jackson, no issue.

* The Roman numerals indicate the generations from William Brooke I, and the small numerals indicate the parties that were brothers and sisters.

V. William Hill Brooke m. 2nd Lucy Beverley Catlett, issue; VI. Ellen Bankhead (11), m. Henry Latane Fauntleroy (issue, VII. William Brooke (1), and VII. Harriet Tunstall Fauntleroy (2),) VI. Harriet Catlett Brooke (12) m. Robert Bruce Fauntleroy (issue, VII, Stuart (1); VII. Clifton (2); VII. Ella Perry (3); VII. Lucille (4) Beverley (4); VII. Virginius (5)) and VII., an infant (6); VI. Annie (13), youngest child of Wm. Hill Brooke and his 2nd. wife, Lucy Catlett.

WILL OF HUMPHREY BROOKE.

Third son of Robert Brooke, Jr., "Knight of Golden Horseshoe."

In the name of God. Amen. Humphrey Brooke being very Sick And Weak, but of Perfect Sence and memory, thanks be to god, do Constitute and ordain this my last Will and Testament in manner and form following: Imprimis. I recommend my soul to Almighty God in hopes of a General Resurrection and my Body to the Earth to be decently Buried by my Executor hereafter named, and as to what Worldly Estate wherewith it hath Pleased God to Bless me, after the Payment of my Just Debts and Funeral Expenses, I dispose thereof as followeth, viz:—

Imprimis, I give and bequeath unto my loving Brother Richard Brooke (1), and his heirs forever all my land in Culpeper County, and all my other Estate both real and Personal *wherever* it may be found, to him and his heirs forever.

Item, my will is that my Loving brother, Richard Brooke, be my Executor of this my last Will and Testament.

In Witness whereof I have set my hand and seal this eleventh day of May, 1758.

HUMPHREY BROOKE, (L. S.)

Signed, Sealed & Delivered in Presence of us:

HAY TALLIAFERRO,	THOS. CATLETT,
CATHERINE ROSE,	ELIZABETH TALLIAFERRO,

His

THOS. (X) WHITLENTON.

Mark.

At a Court held for the County of Culpeper on Thursday, the 17th Day of February, 1763.

This last Will and Testament of Humphrey Brooke, Dec'd, was exhibited to the Court by Richard Brooke, the only Executor therein named, and was partly proved by the oath of Hay Talliferro, one of the witnesses thereto, and ordered to be certified. And at a Court continued and held for the same County on Friday, the 18th day of March, 1763, This said Will was fully proved by the oath of Eliza-

beth Talliferro, Witness thereto, and ordered to be Recorded, and on the motion of the said Executor Certificate is granted him for obtaining a Probat thereof in Due form, he having sworn to the same and given Bond and Security According to Law, and it is ordered that Robert Brooke, Gent.(2), Brother & heir at Law of the said Decedent be summoned to contest the validity of the said Will, if to him it seems expedient.

Test: ROGER DIXON, Cl. Cur.

A copy,—Test: W. E. COONS, Clerk.

WILL OF ROBIN BROOKE (ROBERT BROOKE IV), son of Robert Brooke III, and grandson of Robert Brooke, Jr., "Knight of the Golden Horseshoe."

1778.

I, Robin Brooke, of the County of Essex, and Commonwealth of Virginia, seriously considering the uncertainty of human life do whilst in a sound state of body and mind make this my last will and testament. I most humbly recommend my soul to (the) extensive mercy of that Eternal Supreme and Intelligent Being who gave it me, most earnestly at the same time deprecating his justice, hoping through the merits of Jesus Christ to participate of the joys of heaven.

Imprimis. My will is that all my just debts be paid and discharged, and in token of that filial affection which I owe to my beloved father, Mr. Robert Brooke (a) and mother, Mrs. Mary Brooke (b), I give and bequeath to each a gold ring of five guineas value.

Item. I give and bequeath to my brothers, Humphrey (c) and Edmund Brooke (d), each one gold ring of 3 guineas value.

Item. I give and bequeath to each of my sisters, viz: Mary (e), Catherine (f), Susannah (g), Sarah (h), and Elizabeth Brooke (i), one bracelet of 3 guineas value. And as to my estate which I am seized of, interested in or entitled to, of every kind and nature whatsoever, I lend the same to my beloved wife, Mrs. Lydia Bushrod

(1). This was Richard Brooke, of "Smithfield," fourth and youngest son of Robert Brooke, Jr., "Knight of the Golden Horseshoe."

(2). Of course, this Robert Brooke was the *oldest* brother "of the said decedent," or he would not have been "the heir at law." By the common law if a man died intestate and without children, his *oldest* brother was heir at law, even though his father was still living; but this Humphrey's father died in 1744. This will proves conclusively that this Humphrey died either a bachelor or a widower without children or other *lineal* descendants, because (1) his brother Robert would not have been "the heir at law" if Humphrey had left *lineal* descendants, and (2) we are not to suppose that he would have left all of "his estate, both real and personal, wherever found, to my loving brother, Richard Brooke," without mentioning wife or children, if he had had a wife or children. See this magazine October, 1902, p. 197.

Not improbably it was this Humphrey Brooke, not Humphrey, of Fauquier, who was living in Williamsburg in 1752, when he subscribed for a copy of Mercer's Code of Virginia. See this magazine, January, 1902, p. 316. *Ib.* July, 1902, p. 90.

Brooke (j), during her widowhood, and in case she should marry again then I give or lend her only what the law allows.

Item. At my wife's death or in case she should marry, I give, devise and bequeath all my estate of every kind and nature to the male heir of my body (k); and in case of none such, or he should die under age or without issue, I give, devise and bequeath the personal part of my estate to the female heir of my body, and the real part thereof to my beloved father, Mr. Robert Brooke, and in case of no such female heir of my body, then I give all and every part of my estate whatsoever to my beloved father, Mr. Robert Brooke, his heirs and assigns forever, and appointing him, my said father, Robert Beverley, Esquire, and Dr. John Brockenbrough executors of this my last will and testament. I have hereunto set my hand and seal this 30th day of Sept., in the year of our Lord One Thousand Seven hundred and seventy-eight.

Signed and sealed in presence of

ROBERT BROOKE. (Seal).

At a Court held for Essex County at Tapp'a on the 20th day September, 1779, This instrument of writing purporting (to be) the last will and testament of *Robert Brooke Jun'r* (l) dec'd was proved to be the handwriting of the said decedent by Robert Beverley, John Matthews and Richard Rouzee, and being sworn to by Robert Brooke Sen'r, one of the executors therein named, is admitted to record.

Test: HANCOCK LEE, Cl'k.

A Copy—Test: H. SOUTHWORTH, Clerk.

NOTES TO THE WILL OF ROBIN BROOKE.

- (a) Robert Brooke III. See his will.
- (b) She was the daughter of William Fauntleroy, of Richmond county. See his will.
- (c) He was Humphrey Booth Brooke. See this mag. Oct., 1902, p. 197.
- (d) See this mag. July, 1904, p. 108.
- (e) Mary married Maj. Daniel B. Duval, of Revolutionary fame, of Naylor's Hole, Essex county.
- (f) Catherine married Peter Francisco, of Revolutionary fame, of Buckingham county.
- (g) Susannah married James Vass, late of Fores, Scotland.
- (h) Sarah married Jesse Michaux.
- (i) Elizabeth married ——— Micou.
- (j) See the will of Robert Brooke III.
- (k) The testator evidently did not know that two years earlier, Oct. 7, 1776, Jefferson's statute had abolished estates tail.
- (l) The *Italics* are the Clerk's, who made the certified copy of this will.